

USDOL/OALJ Reporter

[*Brock v. Tennessee Valley Authority*, 89-ERA-13 \(Sec'y June 7, 1994\)](#)

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DATE: June 7, 1994
CASE NO. 89-ERA-00013

IN THE MATTER OF

ROBERT D. BROCK,

COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY,

RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT

Before me for review is the Recommended Order Approving Settlement and Dismissing Complaint (R.O.) issued by the Administrative Law Judge (ALJ) on October 1, 1991, in this case arising under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1988). Before the ALJ the instant case was consolidated with another ERA case, *Frank C. Smith v. Tennessee Valley Authority*, Case No. 89-ERA-00012, wherein the ALJ issued a Recommended Decision and Order on the merits on October 1, 1991. [1] The recommended decisions and record for each of these cases were jointly forwarded to me for review.

Initially, I note that these cases should no longer be consolidated and are hereby severed. Upon careful review of the ALJ's R.O., the parties' Joint Motion for Dismissal, and the terms of the fully executed Memorandum of Understanding and Agreement (Agreement), I accept the ALJ's recommendation to approve the settlement and dismiss the complaint as discussed

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herein.

Review of the Agreement reveals that it may encompass the settlement of matters arising under laws other than the ERA. See Agreement at Para. 1. For the reasons set forth in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case no. 86-CAA-

1, Sec. Ord., Nov. 2, 1987, I have limited my review of the Agreement to determining whether the terms thereof are fair, adequate and reasonable to settle Complainant's allegations that Respondent violated the ERA.

This Agreement is entitled "Administratively Confidential" and Paragraph 2 of the Agreement provides that "the amount set forth in item 1 hereof shall not be revealed to any person not legally entitled to knowledge thereof." It should be noted that the parties submissions, including settlement agreements, become part of the record in the case and are subject to the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1988), which requires federal agencies to disclose requested records unless they are exempt from disclosure under the Act. *Debose v. Carolina Power & Light Co.*, Case No. 92-ERA-14, Ord. Disapproving Settlement and Remanding Case, Feb. 7, 1994, slip op. at 2-3 and cases cited therein.

As construed herein, I find the terms of the Agreement are fair, adequate and reasonable to settle Complainant's allegations that Respondent violated the ERA, and I approve it. Accordingly, the complaint is dismissed with prejudice. See Parties' Recommended Order of Dismissal attached to the Joint Motion for Dismissal.

SO ORDERED.

ROBERT B. REICH
Secretary of Labor

Washington, D.C.

[ENDNOTES]

[1] Case No. 89-ERA-00012 is still pending before me.